family relation, and the personality of the child. See *Matter of Matthews*, 153 N. Y. 443, 47 N. E. 901; *Powell* v. *State*, 84 Ohio St. 165, 95 N. E. 660; Melvin, J., dissenting, in *Estate of McNamara*, *supra*. While the child's rights of substance are not directly involved in the principal case, it would seem proper to apply the presumption for the protection of the child's interests of personality.

EASEMENTS — EXTENT OF USER — ORDER TO COMPEL CLOSING OF GATE. — A had a right of way over B's land. In order to confine his live-stock, B fenced his land, leaving a gate to preserve the way. A refusing to close the gate, B brought a bill to compel A to do so. *Held*, that A must close the gate. *Geohegan* v. *Henry*, 55 Ir. L. J. Rep. 190.

The owner of the servient tenement may maintain gates across a way created by grant, if they are necessary to a reasonable enjoyment of his property and do not unduly interfere with the easement granted. *Green* v. *Goff*, 153 Ill. 534, 39 N. E. 975; *Blais* v. *Clare*. 207 Mass. 67, 92 N. E. 1009. See JONES, EASEMENTS, §§ 400-407. The right may, however, be expressly or impliedly negatived in the grant of the easement. See *Flaherty* v. *Fleming*, 58 W. Va. 669, 52 S. E. 857; *Dickinson* v. *Whiting*, 141 Mass. 414, 6 N. E. 92. The same rule should apply when the easement is acquired by prescription, though the way was totally unobstructed during the prescriptive period. The nature of the easement gained should govern, rather than the particular manner of use by which it was gained. *Luster* v. *Garner*, 128 Tenn. 160, 159 S. W. 604; *Ames* v. *Shaw*, 82 Me. 379, 19 Atl. 856. *Contra*, *Shivers* v. *Shivers*, 32 N. J. Eq. 578; *Fankboner* v. *Corder*, 127 Ind. 164, 26 N. E. 766. If it is once admitted that the maintenance of gates is reasonable under the circumstances, the owner of the easement must close them. *Mendelson* v. *McCabe*, 144 Cal. 230, 77 Pac. 915; *Griffin* v. *Gilchrist*, 29 R. I. 200, 69 Atl. 683; *Helwig* v. *Miller*, 47 Pa. Super. Ct. 171. Failure to do so is an abuse of his right, the repetition of which will be enjoined in order to prevent a multiplicity of petty actions at law.

EXECUTORS — LIABILITY TO ACCOUNT FOR PROFITS INDIRECTLY DERIVED FROM CONTROL OVER THE ESTATE. — The defendant Trusts Corporation held as executor a controlling interest in the stock, and thereby "carried on the business," of the W Corporation. The latter corporation, having a large sum on hand, deposited it with the defendant upon terms which "it was admitted were more profitable [to the W Corporation] than any that could have been made with a bank." The beneficiaries of the estate brought this bill, charging *inter alios* that the defendant would make a profit out of the deposit and because of its fiduciary position ought to have to account for it. *Held*, that this portion of the bill be dismissed. *Woods* v. *Toronto General Trusts Corporation*, 20 Ont. Weekly Notes, 431.

A trustee or other fiduciary may not retain any profit derived from dealings with the trust estate. *Magruder* v. *Drury*, 235 U. S. 106; SCOTT, CASES ON TRUSTS, 501; *Skinnell* v. *Mahoney*, 197 App. Div. 808, 189 N. Y. Supp. 845. See *Hand* v. *Allen*, 128 N. E. 305, 312 (Ill.). Nor may he keep profits derived immediately from his own property if they are obtained indirectly by virtue of some advantage given by his holding of the trust *res*. *Bay State Gas Co.* v. *Rogers*, 147 Fed. 557 (Circ. Ct., D. Mass.). See 20 HARV. L. REV. 337. The rule is one of precaution and is applied stringently because of the otherwise great possibility of abuse. Since in the principal case the stock in the W Corporation gave the defendant a potential control of the corporation's money, a decision for the plaintiff might upon the authorities have been expected. But it may be that the corporation was governed by a board of directors not subservient to the defendant. If that was so, the decision may be supported on the ground that, so long as it acts in good faith and not to the positive